



4310-JB

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[LLCOF02000.L12200000.DU0000-17X]

Final Supplementary Rules for Guffey Gorge in Park County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) Royal Gorge Field Office is implementing supplementary rules to regulate certain activities on public lands within Guffey Gorge in Park County, Colorado. These supplementary rules are necessary to implement decisions found in the Guffey Gorge Management Plan approved on June 29, 2015, to provide for the protection of persons, property, and public lands and resources located within the 80-acre site. These supplementary rules will result in changes to some currently authorized activities related to the possession or use of alcohol, amplified music, vehicle parking, and visitors with dogs.

DATES: These supplementary rules are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send inquiries by mail or hand delivery to Linda Skinner, Outdoor Recreation Planner, BLM Royal Gorge Field Office, 3028 E. Main Street, Cañon City, CO 81212. You may also send inquiries via e-mail to rgfo_comments@blm.gov (include “Final Supplementary Rules-Guffey Gorge” in the subject line).

FOR FURTHER INFORMATION CONTACT: Linda Skinner, Outdoor Recreation Planner; see address in the “ADDRESSES” section of this notice; telephone (719) 269-8732. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339 to contact Linda Skinner during normal business hours. The Service is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION

I. Background

Guffey Gorge is an 80 acre tract of public land in Park County, Colorado. It is surrounded by private land with Park County Road 102 providing legal public access. Until ten years ago, recreational use of this area was light, and the area was used primarily by local residents for picnicking, hiking, and swimming. Recreational use of the area has increased significantly over the past five years, resulting in resource damage, user conflicts, and safety hazards for visitors and surrounding private landowners. In 2013, the BLM began the public process for developing a management plan for the 80 acre parcel to manage the increasing visitor use and associated issues. This process included presentations and site tours with the Rocky Mountain (formerly Front Range) Resource Advisory Council (RAC) and collaboration with stakeholders and concerned citizens. On August 11, 2014, the BLM initiated a 30-day public scoping period. Based on feedback received during this process, the BLM developed a proposed action and released a preliminary Environmental Assessment (EA) for a 30-day public review on November 20, 2014. The BLM incorporated comments into the Final EA and

corresponding Decision Record, signed on June 29, 2015.

II. Discussion of Public Comments and the Final Supplementary Rules

The proposed supplementary rules were published in the Federal Register on June 1, 2016 (81 FR 35039). The BLM received three letters with comments during the 60-day comment period. One commenter supported a proposed fee; therefore, the comment was not relevant to the proposed supplementary rules. A second commenter submitted a general statement in support of controlling cars, trash, and people in Guffey Gorge. In response to this comment, the concern for controlling cars supports the rule that prohibits parking a motor vehicle outside of designated parking areas. The trash issue was addressed through the Guffey Gorge Management Plan, approved on June 29, 2015, by creating a standard amenity site with trash collection; therefore, no revision to the rules was needed. The third commenter shared a story about her negative experience at Guffey Gorge. This commenter supports a strict ban on alcohol consumption while visiting Guffey Gorge. The comment was noted as supporting the rule prohibiting the possession or consumption of alcoholic beverages.

These final supplementary rules implement certain decisions from the Guffey Gorge Management Plan on lands administered by the Royal Gorge Field Office. The planning area consists of approximately 80 acres of public lands within Park County, Colorado, in the following described townships:

Park County, Colorado, Sixth Principal Meridian

T. 15 S., R. 71 W.

Section 4: SE1/4SE1/4 Section 9: NE1/4NE1/4

These final supplementary rules are needed to address significant public safety concerns and resource protection issues resulting from increased and unsafe public use on public lands known as Guffey Gorge. The authority for these supplementary rules is set forth at section 310 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1740, and 43 CFR 8365.1–6. This notice, with a detailed map, will be posted at the Royal Gorge Field Office.

These final supplementary rules will help the BLM achieve management objectives for the area in the following ways:

- Supplementary rule number one prohibits possession and consumption of alcoholic beverages. As visitation at Guffey Gorge has increased, alcohol and drug use has also increased, leading to public health and safety concerns. This supplementary rule will help reduce disruptive behavior associated with alcohol use, improve public safety, and reduce litter in the area.
- Supplementary rule number two prohibits visitors from parking a motor vehicle outside of designated parking areas. Visitor parking is limited at Guffey Gorge and frequently overflows onto the shoulder of Park County Road 102. Park County Road 102 is a narrow, two-lane road with limited visibility near the Guffey Gorge trailhead. Restricting parking to designated parking areas only is essential for public health and safety.
- Supplementary rule number three requires animals brought into the area to be on a leash and under the control of a person, or otherwise physically restricted. This rule will help reduce problems associated with unrestrained dogs observed by staff in recent years. Currently, BLM regulations only require dogs to be restrained in

developed recreation sites. Guffey Gorge is not a developed site, so existing BLM regulations do not apply. This supplementary rule will help reduce conflicts between visitors; reduce conflicts between domestic animals and wildlife; and control domestic animal waste.

- Supplementary rule number four prohibits the operation of any device producing amplified sound, such as stereos, speakers, and public address systems. This supplementary rule will help restore opportunities for quiet recreational activities recognized as one of Guffey Gorge's attributes.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not significant regulatory actions and not subject to review by the Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an annual effect of \$100 million or more on the economy. They will not adversely affect in a material way the economy; productivity; competition; jobs; environment; public health or safety; or State, local or tribal governments or communities. These supplementary rules do not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These supplementary rules merely establish rules of conduct for public use of a limited area of public lands.

National Environmental Policy Act

During the National Environmental Policy Act (NEPA) review for the Guffey Gorge

Management Plan, the BLM fully analyzed the substance of these supplementary rules in an EA, DOI-BLM-CO-200-2013-040 EA. The BLM signed the Decision Record for the EA on June 29, 2015, and found that these supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)). These supplementary rules merely establish rules of conduct for public use of a limited area of public lands in order to protect natural resources and public health and safety. Although some activities will be prohibited in the area, the area will still be open to other recreation uses. A detailed statement under NEPA is not required. The BLM has placed the EA and Finding of No Significant Impact on file in the BLM Administrative Record at the address specified in the “ADDRESSES” section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These supplementary rules will have no effect on business entities of any size. These supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM has determined under the RFA that these supplementary rules will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These supplementary rules are not a "major rule" as defined at 5 U.S.C. 804(2). These supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. These supplementary rules will not:

- (1) Have an annual effect on the economy of \$100 million or more;
- (2) Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local agencies; or geographic regions; or
- (3) Have significant adverse effects on competition, employment, investment, productivity, or innovation; or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on the private sector; or State, local, or tribal governments of more than \$100 million per year, nor will these supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. These supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These supplementary rules do not constitute a government action capable of interfering with constitutionally protected property rights. These supplementary rules will not

address property rights in any form, and will not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that these supplementary rules will not cause a “taking” of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

These supplementary rules will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these supplementary rules will not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Colorado State Director has determined that these supplementary rules will not unduly burden the judicial system, and that they meet the requirements of Sections 3(a) and 3(b) (2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these supplementary rules do not include policies that have tribal implications, and will have no bearing on trust lands or on lands for which title is held in fee status by Indian Tribes or U.S.

Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing these supplementary rules, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section

515 of Pub. L. 106–554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These supplementary rules do not constitute a significant energy action. These supplementary rules will not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that these supplementary rules will not impede facilitating cooperative conservation; will take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; will properly accommodate local participation in the Federal decision-making process; and will provide that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Author

The principal author of these final supplementary rules is Linda Skinner, Outdoor Recreation Planner, BLM, Royal Gorge Field Office.

For the reasons stated in the preamble, and under the authorities for supplementary rules found at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the BLM Colorado State Director establishes supplementary rules for approximately 80 acres of public lands in Guffey

Gorge, to read as follows:

FINAL SUPPLEMENTARY RULES FOR GUFFEY GORGE

Prohibited Acts

Unless otherwise authorized, the following acts are prohibited on all public lands, roads, trails, and waterways administered by the BLM within the Guffey Gorge Management Area:

1. You must not possess or consume alcoholic beverages;
2. You must not park a motor vehicle outside of designated parking areas;
3. You must not bring an animal into the area, unless the animal is on a leash not longer than six feet and secured to a fixed object or under control of a person, or is otherwise physically restricted at all times; and
4. You must not operate any device producing amplified sound such as a stereo, speaker, public address system, or other similar device.

Exemptions

The following persons are exempt from these supplementary rules: Any Federal, State, local and/or military persons acting within the scope of their duties; members of any organized rescue or fire-fighting force in performance of an official duty; or individuals expressly authorized by the BLM.

Enforcement

Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Colorado law.

Gregory P. Shoop,

Acting BLM Colorado State Director

[FR Doc. 2017-27413 Filed: 12/19/2017 8:45 am; Publication Date: 12/20/2017]